

REMARKS

Claims 68-90 were pending in the present application. Claims 68-90 currently stand rejected under 35 U.S.C. § 112 as allegedly failing to comply with the written description requirement. Claims 68-70, 73-76, 79-82, and 85-87 are hereby cancelled from this Application. Claims 71, 72, 83, 84, 88, and 90 are herein amended. Claims 71, 83, and 88 have been rewritten in independent form, each including recitations from its prior base claim and intervening dependent claims, and each with revision of language regarding consumer selection or preference information for purposes of clarification. Claim 90 has been amended to change its dependency from a canceled claim. New claims 91-94 have been added. No new matter has been introduced by these amendments.

Objections to the Specification

The claim amendments submitted herein are believed to address the outstanding objections to the specification. Accordingly, Applicants respectfully request that the objections to the specification be withdrawn.

Claim Rejections – 35 U.S.C. § 112

Claim 71 has been amended and rewritten in independent form and now includes recitations previously in canceled independent claim 68, the base claim from which claim 71 previously depended indirectly, and canceled claim 70, from which claim 71 previously depended directly. Additionally, the claim has been restructured to clarify that the “without consumer selection or using individual consumer preference information” recitation refers to transmitting.

Claims 83 and 88 are also amended herein. Each has been rewritten in independent form, incorporating recitations from its previous base claim and intervening claims and restructured for clarification.

Applicants respectfully contend that the claim amendments address the pending rejections under 35 U.S.C. § 112. Accordingly, Applicants request that the rejection of these claims be reconsidered.

Previous Claim Rejections – 35 U.S.C. § 103(a)

Applicants note with appreciation the Examiner’s expressed interest in expediting prosecution and his mention of previously cited references. In the interest of expediting

prosecution, Applicants present the following remarks directed to previous claim rejections under 35 U.S.C. § 103(a).

Claim 71 was previously rejected as allegedly unpatentable under 35 U.S.C. § 103(a) as being obvious over U.S. Pat. No. 6,619,247 (“Russo”), U.S. Pat. No. 5,440,334 (“Walters”), and U.S. Pat. No. 6,141,530 (“Rabowsky”), and further in view of U.S. Patent No. 6,005,938 (“Banker”). Claim 71 as amended recites, in part:

... wherein the transmitted video programs are encoded with time-based code keys A, wherein the time-based code keys A encoded into the transmitted video programs are correlated with **periodic time-based code keys B that are blanket transmitted to the plurality of consumer locations** and time-based code keys C that are provided to consumer locations within the plurality of consumer locations that are in good standing, wherein a consumer can only view a video program if all three code keys A, B and C have been received... (emphasis added)

Banker teaches the use of entitlement control messages (“ECMs”).

In association with encrypted service instance 117, service provider 105 sends a series of entitlement control messages (ECMs) 119. Each ECM 119 corresponds to a part of encrypted service instance 117. An ECM contains two kinds of information: one kind identifies the service that encrypted service instance 117 is an instance of; the other, shown in FIG. 1 as decryption information (DI) 120, is information which, when combined with the session key 110 stored in SEMI 115, permits decryption of encrypted service instance 117 in service subscriber device 113.

(Banker, column 1, line 67 – column 2, line 10.)

Banker also teaches the use of entitlement messages (“EMMs”).

There are two kinds of EMM: a decryption EMM (DEMM) 108 which contains a session key (SK) 10 that will be used to decrypt instances of one or more services to which the subscriber is entitled, and an authorization EMM (AEMM) 109 which contains a specification of the services the subscriber is entitled to.

(Banker, column 1, lines 51 – 56.)

Importantly, Banker teaches that “EMMs are intended for individual subscribers.”

(Banker, column 6, lines 55 – 56.)

Applicants respectfully contend that Banker does not teach the use of “periodic time-based code keys B that are blanket transmitted to the plurality of consumer locations” such as recited in claim 71. The application describes an embodiment of the periodic time-based code keys B as:

... time-based security codes B (discussed below) are transmitted at periodic intervals (e.g., every ten minutes, every hour or every day, as deemed most desirable by the video distribution system operator) ...

(Application Specification, p. 17, lines 9 – 13.)

A second code key B comprises a 32-bit code for each month chosen by the video distribution system operator at the beginning of each month. Code keys B for all available movies are blanket transmitted to customer households each month by the data transmission means, preferably, satellite.

(Application Specification, p. 21, lines 3 – 7.)

The ECMs, as disclosed by Banker, are not *periodic*, but rather are transmitted with each “service instance.” The EMMs, as disclosed by Banker, are not *blanket transmitted to the plurality of consumer locations*, but rather are intended for individual subscribers. Thus, none of the code messages disclosed by Banker teach “periodic time-based code keys B that are blanket transmitted to the plurality of customer locations”, as recited in claim 71. The other three cited reference, Russo, Walters, and Rabowsky, appear to be silent on the issue of using three time-based code keys and have not been cited for such.

For at least the reasons explained above, Applicants respectfully submit that the cited references, either alone or in combination, do not teach the all of the recitations of claim 71 and, therefore, claim 71 is patentably defined over the cited art.

Claim 72 depends from claim 71. Applicants respectfully submit that for at least the reasons explained above with respect to independent claim 71, claim 72 is patentably defined over the cited art.

Claims 77 and 78 each recite a “computer readable medium having computer-executable instructions stored thereon for performing the method” of claim 71 and 72, respectively. Thus, for at least the reasons presented above with respect to claims 71 and 72, Applicants respectfully submit that claims 77 and 78 are patentably defined over the cited art.

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Claims 83, 88, and 91 each contain recitations related to code keys A, B, and C such as recited in claim 71. Applicants respectfully submit that for at least the reasons explained above with respect to claim 71, claims 83, 88, and 91 are patentably defined over the cited art.

Claim 84 depends from claim 83. Claims 89 and 90 each depend from claim 88. Claim 92 depends from claim 91. Claims 93 and 94 each recite a “computer readable medium having computer-executable instructions stored thereon for performing the method” of claim 91 and 92, respectively. Applicants respectfully submit that for at least the reasons explained above with respect to claims 83, 88, and 91, claims 84, 89-90, and 93-94 are patentably defined over the cited art.

Conclusion

As explained above, Applicants submit that claims 71, 72, 77, 78, 83, 84, and 88-94, which are now pending in the Application, are patentably defined over the cited art. The Examiner is respectfully urged to reconsider the Application. Favorable consideration and passage to issue of the application is earnestly solicited. If the Examiner should, however, find the claims as presented herein are not allowable for any reason or if the Examiner has any questions, comments, or suggestions that would expedite the prosecution of the present case, the Applicants undersigned representative would sincerely welcome a telephone conference at (206) 903-2475.

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